	Application No.	Applicant(s)
Notice of Allowability	10/775,733	DIAS ET AL.
	Examiner	Art Unit	
	Edward R. Cosimano	2863	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to *the Request for Continued Examination and submission of 24 July 2007*.

2. ☒ The allowed claim(s) is/are *1-10,12-19,21-27,29-34,36,38 and 39*.

3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a) ☐ All   b) ☐ Some*   c) ☐ None of the:

        1. ☐ Certified copies of the priority documents have been received.

        2. ☐ Certified copies of the priority documents have been received in Application No. _____ .

        3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

    * Certified copies not received: _____ .

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application. **THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.

5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.

    (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached

        1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.

    (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).

6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)

2. ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)

3. ☒ Information Disclosure Statements (PTO/SB/08), Paper No./Mail Date <u>07/24/2007</u>

4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material

5. ☐ Notice of Informal Patent Application

6. ☐ Interview Summary (PTO-413), Paper No./Mail Date _____ .

7. ☒ Examiner's Amendment/Comment

8. ☒ Examiner's Statement of Reasons for Allowance

9. ☐ Other _____.

1.   A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after allowance or after an Office action under *Ex Parte Quayle*, 25 USPQ 74, 453 O.G. 213 (Comm'r Pat. 1935). Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, prosecution in this application has been reopened pursuant to 37 CFR 1.114. Applicant's submission filed on 24 July 2007 has been entered.

2.   The Oath/Declaration and Abstract as originally filed are acceptable to the examiner.

3.   Applicant's claim for the benefit of an earlier filing date pursuant to 35 U.S.C. 119(e) is acknowledged.

4.   The combined set of drawings containing 6 sheets of 6 figures numbered as figures 2 & 3 as presented in the set of drawings filed on 09 February 2004 and figures 1, 4, 5 & 6 as presented in set of drawings filed on 22 September 2006 are acceptable to the examiner.

5.   The following is a statement of reasons for the indication of allowable subject matter:

A) the prior art, for example:

(1) either Mac Arthur (3,324,458) or Miller et al (3,351,910) or Cihiwsky et al (4,994,986) or Lu (2004/0044500, with an effective date of September 04, 2003) disclose a computer implemented machine/process that provides the useful and beneficial function of remotely collecting, evaluating and displaying data/information in which a computer is used to:

(a) either continuously or periodically remotely sense/monitor the current operating state/condition of a machine/process;

(b) compare the sensed condition to predetermined criteria; and

(c) display the sensed/monitored information and the results of the comparison to an user/operator at a central location.

Further Miller et al ('910) discloses that the monitored variable may also be recorded only when there is a change in the variable. Where the use of a computer to perform the combination of remote monitoring and centrally displaying information makes it faster and easier for an operator to properly diagnose faults in the operation of the machine/process and periodic logging of

data/information reduces the amount of data required to be stored for event detection and diagnosis.

(2) IBM Technical Disclosure Bulletin, "Software Monitor for Performance Tuning a Virtual Memory Computer System", 01 May 1973, Vol. No. 15, Issue No. 12, pages 3730 – 3733, discloses a computer implemented machine/process that provides the useful and beneficial function of a monitoring machine/process in which detected events are monitored and recorded as the event occurs and background tasks are periodically monitored.

(3) Sato (JP 02-232795 A) disclose a computer implemented machine/process that provides the useful and beneficial function of a monitoring machine/process in which the number of detected operational and non-operational states during a measurement interval are used to determine and manage the operating rate of a machine/process.

(4) Johnson et al (5,349,662) disclose a computer implemented machine/process that provides the useful and beneficial function of a monitoring machine/process in which an user defines events regarding user activity that are to be logged and the machine/process waits until an user defined event is detected. Once the user defined event is detected, then the machine/process logs the detected event and repeats the process of logging by waiting for the next time that an user defined event is detected.

(5) Womble (5,488,648) discloses a computer implemented process/machine that under the control of an operating program stored in a computer accessible storage device provides the useful and beneficial function of event/fault detection and diagnosis in a machine/process by creating of a first database from the data/information collected by continuously monitoring and sampling the current operational state of the components of a machine/process, next passing the collected data/information through an event filter in order to determine when the collected data/information is indicative of an active operation to be monitored and when an active event of interest is detected the collected

data/information is sampled by capturing and storing a snapshot of the collected data/information as a history/event log that may be viewed by an user.

(6) Gomi et al (5,729,736) disclose a computer implemented machine/process that provides the useful and beneficial function of a monitoring machine/process in which an abnormal event is detected when the monitored processing time between the start and end of an access to a database exceeds a predetermined allowable time.

(7) Desai et al (5,781,703) disclose a computer implemented machine/process that provides the useful and beneficial function of a monitoring machine/process in which the performance monitoring of a machine/process is performed either (a) upon the detection of an event of interest; or (b) or periodically at the start or end of an interval of time.

(8) Yee et al (5,872,976) disclose a computer implemented machine/process that provides the useful and beneficial function of a monitoring machine/process in which the operation of another machine/process in monitored and data/information about the monitored machine/process is logged in a database. At the request of an user that contains an identification of an event, the database of logged events is scanned/searched/mined for the user identified event and the results are communicated to the requesting user.

(9) Pisecky (WO 02/06949 A2) disclose a computer implemented machine/process that provides the useful and beneficial function of a monitoring machine/process in which the total time of execution of a task/event is determined by starting a timer when the tack is being executed and stopping a timer when the task is not being executed.

B) however, the prior art does not fairly teach or suggest in regard to claims 1 & 31 a process in claim 1 and a manufacture/article to control a machine/process in claim 31 that provides the useful and beneficial function of monitoring and recording/logging data/information regarding the active operations of a machine/process in an historical database by providing actions in claim 1 and structures in claim 31 that perform at least the functions of:

(1) determining a plurality of times to acquire or sample data/information regarding the current operation of the machine/process; and

(2) at each of the determined times, performing the functions of:

(a) determining which of the one or more current operations of the machine/process are currently active, that is currently operating;

(b) for each operation that is determined to be active, capturing data/information regarding the active operation; and

(c) for each operation that is determined to be active storing/logging the captured data/information about the active operation into a database as a snapshot of the active operation of the machine/process.

Claims 2-10 & 12, which depend from claim 1, and claims 32-34, which depend from claim 31, are allowable for the same reason.

C) however, the prior art does not fairly teach or suggest in regard to claims 13, 22 & 36 a machine in claim 13, a process in claim 22, and a manufacture/article in claim 36 to control a machine/process that provides the useful and beneficial function of monitoring and recording/logging data/information regarding the active operations of a machine/process in an historical database by providing structures in claims 13 & 36 and actions in claim 22 that perform at least the functions of:

(1) at each sampling times, performing the functions of:

(a) determining which of the one or more current operations of the machine/process are currently active, that is currently operating;

(b) for each operation that is determined to be active, capturing data/information regarding the active operation; and

(c) for each operation that is determined to be active storing/logging the captured data/information about the active operation into a database as a snapshot of the active operation of the machine/process.

Claims 14-19 & 21, which depend from claim 13, claims 23-27, 29 & 30, which depend from claim 13, and claims 38 & 39, which depend from claim 36, are allowable for the same reason.

6.   Response to applicant's arguments.

6.1   Objections and rejection that have not been repeated here in have been over come by applicant's last response.

7.   Any inquiry concerning this communication or earlier communications from the examiner should be directed to Edward R. Cosimano whose telephone number is 571-272-0571. The examiner can normally be reached on 571-272-0571 from 7:30am to 4:00pm (Eastern time).

7.1   If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Barlow, can be reached on 571-272-2269. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

7.2   Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

ERC
08/18/2007

Edward Cosimano
Primary Examiner